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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

LS

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536



JUL 17 2003

File: 

Office: Missouri Service Center

Date:

IN RE: Applicant: 

Application: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT: 

INSTRUCTIONS:

Attached is the decision rendered on your appeal. The file has been returned to the Service Center that processed your case. If your appeal was sustained, or if your case was remanded for further action, the Service Center will contact you. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.



Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Missouri Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. This matter will be remanded for further action and consideration.

The director concluded the applicant had not established that he had applied for class membership in any of the requisite legalization class action lawsuits prior to October 1, 2000, and therefore, denied the application.

On appeal, counsel claims that the applicant has previously provided proof of his class membership in the legalization lawsuit. Counsel submits documentation in support of the appeal.

An applicant for permanent resident status under the LIFE Act must establish that before October 1, 2000, he or she filed a written claim with the Attorney General for class membership in any of the following legalization class-action lawsuits: *Catholic Social Services, Inc. v. Meese*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993).

Bureau regulations provide an illustrative list of documents that an applicant may submit to establish that he or she filed a written claim for membership before October 1, 2000. 8 C.F.R. § 245a.14. The regulations also permit the submission of "[a]ny other relevant document(s)." 8 C.F.R. § 245a.14(g). Furthermore, the pertinent regulation at 8 C.F.R. § 245a.14, requires the Bureau to determine whether an alien filed a written claim for class membership as reflected in the Bureau's indices and administrative files.

The applicant initially submitted documentation addressing this requirement. Furthermore, upon receiving a notice of intent to deny, counsel furnished a rebuttal statement and documentation addressing the applicant's claim of having applied for class membership. However, in the denial notice the director did not specify any deficiencies in the evidence furnished, and did not address the rebuttal statement. Also, there is no evidence in the record that the Bureau checked all appropriate indices and checked for other files.

It is noted that the director erroneously stated in the decision that the applicant was statutorily ineligible to adjust status under provisions of the LIFE Act because he had previously applied as a special agricultural worker under section 210 of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1160. As stated in 8 C.F.R. § 245a.10, an alien is eligible for

consideration under the LIFE Act if he or she filed a written claim for class membership in one of the legalization class-action lawsuits cited above, regardless of whether the alien had submitted a prior application for temporary resident status under either sections 245A or 210 of the INA.

The director shall document any efforts that were made to check Bureau indices and any other possible files for evidence of the applicant having applied for class membership. The director must also address the evidence furnished by the applicant and make a determination as to its sufficiency. Any perceived shortcomings in the evidence must be specified by the director in order that the applicant has the opportunity to file a meaningful appeal.

Accordingly, this matter will be remanded for the purpose of a new decision addressing the above. In the event the director denies the application again, this matter shall be certified to this office for review.

ORDER: This matter is remanded for further action and consideration pursuant to the above.